

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ZACHARY R. GRAHAM,)
Plaintiff,) Civil Action No. 2:21-cv-846
v.) Magistrate Judge Maureen P. Kelly
PENNSYLVANIA DEPARTMENT OF)
VITAL HEALTH RECORDS,) Re: ECF No. 6
Defendant.)

ORDER

Plaintiff Zachary R. Graham (“Plaintiff”) is a state prisoner currently incarcerated at the State Correctional Institution at Greene (“SCI-Greene”) in Waynesburg, Pennsylvania. Presently before the Court is Plaintiff’s Motion to Proceed using Feminine Pronouns and Titles. ECF No. 6.

In this motion, Plaintiff alleges to be a transsexual female who uses feminine pronouns and titles. Id. ¶¶ 1 and 2. Plaintiff asserts that the use of masculine pronouns causes gender dysphoria and significant emotional distress. Id. ¶ 2. For these reasons, Plaintiff requests an order to “allow [P]laintiff to proceed using feminine pronouns and titles”

To the extent that Plaintiff seeks an order compelling the undersigned, court staff, or the parties to address Plaintiff using feminine pronouns or appellations, this motion must be denied, as stated. Plaintiff provides no case law supporting the proposition that this Court has the authority to issue such an order, and other courts have recognized problems and complications that might arise with doing so. See, e.g., United States v. Varner, 948 F.3d 250, 254-257 (5th Cir. 2020).

That said, the United States Court of Appeals for the Third Circuit has set an example of referring to a litigant by his or her preferred gender pronouns as a matter of courtesy. See, e.g.,

Pinson v. Warden Allenwood USP, 711 F. App'x 79, 80 n.1 (3d Cir. 2018) ("Because Pinson has referred to herself using feminine pronouns throughout this litigation, we will follow her example."); see also Varner, 948 F.3d at 260 (Dennis, J., Dissenting) ("though no law compels granting or denying such a request, many courts and judges adhere to such requests out of respect for the litigant's dignity."). There being no reason not to extend the same courtesy to Plaintiff, the undersigned will refer to her using feminine pronouns and appellations, to the extent that use of the same is necessary.

AND NOW this 13th day of July, 2021, IT IS HEREBY ORDERED that Plaintiff's Motion to Proceed Using Feminine Pronouns and Titles, ECF No. 6, is DENIED to the extent it seeks an order compelling court staff or the parties to use specific gendered pronouns or appellations. The undersigned will use the same as a matter of courtesy.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order.

Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/ Maureen P. Kelly
UNITED STATES MAGISTRATE JUDGE

cc: ZACHARY R. GRAHAM
NP 2097
SCI Greene
175 Progress Drive
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